pennsylvania
DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

KEYSTONE OPPORTUNITY ZONE

Program Guidelines | February 2019

Commonwealth of Pennsylvania | Josh Shapiro, Governor
PA Department of Community & Economic Development | dced.pa.gov

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Section I – General

A. Introduction

The Keystone Opportunity Zone (KOZ) Program is one of the nation's boldest and most innovative economic and community development programs. This unique program develops a community's abandoned, unused, underutilized land and buildings into business districts and residential areas that present a well-rounded and well-balanced approach to community revitalization. The Department of Community and Economic Development (the "Department") administers this partnership between state and local government in collaboration with the Department of Revenue (state taxes) and the Department of Labor and Industry (Unemployment Compensation taxes), based on the act of October 6, 1998 (P.L. 705, No. 92) known as the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act (73 P.S. §§820.101- 820.1309) (the "Act").

Unless otherwise indicated, the term "Zone" or "Zones" refers collectively to a KOZ, KOEZ and KOIZ. Zones are designated by the local communities and approved by the Department, except for KOIZ, which are designated by Executive Order of the Governor and approved by the local communities. Zones provide specific state and local tax benefits. Zones entitle businesses and residents to certain tax benefits when they locate in a Zone. The number and size of Zones varies. Each Zone is comprised of Subzones. The term "Subzone" or "Subzones" refers collectively to KOZ Subzones, KOEZ Subzones and KOIZ Subzones unless otherwise indicated. Along with the remarkable tax advantages, these areas provide close proximity to major interstates, ports, rail lines and international airports.

B. Program Qualifications

1. **Qualified Business:** A business authorized to do business in this commonwealth which is located or partially located within a Subzone and is engaged in the active conduct of a trade or business in accordance with the requirements of section 307 of the Act for the taxable year. An agent, broker or representative of a business is not engaged in the active conduct of trade or business for the business. In order to qualify each year for a tax exemption, deduction, abatement or credit under the Act, a business shall own or lease real property in a zone from which the business actively conducts a trade, profession or business. The qualified business shall receive certification from the Department that the business is located and is in the active conduct of a trade, profession or business, within the zone. The business shall obtain annual renewal of the certification from the Department to continue to qualify as a qualified business.
2. **Relocation:** Any existing qualified business relocating from a Pennsylvania location into a zone must demonstrate a significant economic impact that will result from relocation into a zone. Any qualified business currently operating at an underutilized site at the time a such site is designated as a new zone must satisfy the relocation requirements to receive KOEZ benefits. *(See Section D)*
3. **Recapture:** Any qualified business that has received KOZ benefits and moves out of the zone within the first 5 years may be subject to penalties.
4. **Property Owner Qualifications:** Please be advised that you must apply annually to the Department in order to receive approval for property tax abatement, as required by Section 907 of the Act. If you are found to be noncompliant with any tax or zoning requirements during the calendar year, your KOZ status will be revoked and you may be subject to penalties and/or recapture under the Act.
5. **Resident Qualifications:** Residents must maintain compliance with all state and local tax laws and must reside 184 consecutive days in the Zone during each tax year.

All KOZ applicants must file an annual application with the Department.

The KOZ Change of Status notification must be submitted to the Department if a change takes place.

C. Taxes Eligible To Be Waived

Through credits, waivers and broad-based tax abatements, total taxes on economic activity in zones are significantly reduced. These benefits affect the following taxes:

State

- Corporate Net Income tax
- Personal Income tax
- Sales and Use tax (purchases consumed and used by the qualified business in the zone)
- Mutual Thrift Institution tax
- Bank and Trust Company Shares tax

Local

- Earned Income/Net Profits tax
- Business Gross Receipts, Business Occupancy, Business Privilege and Mercantile tax
- Sales and Use tax (county/city; purchases exclusively used and consumed by the qualified business in the zone)
- Property tax

D. Requirements / Penalties / Deadlines / Definitions

1. **Change of Status Notification (Required)**
   KOZ applicants are required to immediately notify the Department when there is a change in status due to relocation, sale, local non-compliance, closure, death, business name change, parcel number change, address change or any change that may affect benefit status.

2. **Existing Pennsylvania Business Relocating to a Keystone Opportunity Zone**
   Any business that relocates from outside a subzone, improvement subzone or expansion subzone into a subzone, improvement subzone or expansion subzone shall not receive any of the exemptions, deductions, abatements or credits set forth in this act unless that business does one of the following:

   a. Increases full-time employment by at least 20% in the first full year of operation within the zone or;

   b. Makes a capital investment in the property located within the zone at least equivalent to 10% of the gross revenues of that business in the immediately preceding calendar or fiscal year attributable to the business location or locations that are being relocated to a zone.

   c. Enters into a lease agreement for property located within the zone for a term at least equivalent to the duration of the zone and with the aggregate payment under the lease agreement at least equivalent to 5% of the gross revenues of that business in the immediately preceding calendar or fiscal year.

   The Department, in consultation with the Department of Revenue, may waive or modify the requirements of this subsection, as appropriate. Relocating businesses must request a modification to the requirements of this subsection within 30 days of receiving their Initial Relocation Notification letter.

   Any questions concerning the relocation provisions should be directed to the KOZ Manager at the Department *(Attachment I)*.

3. **Compliance**
   All "qualified businesses" and "persons" must be in full compliance with all state and local tax laws, and building and housing code provisions, in order to claim exemptions, deductions, abatements or credits offered in the Act. The Department of Revenue reserves the right to conduct an audit of an applicant for benefits to ensure full compliance with the Act.

4. **Monitoring and Reporting**
   When applying for KOZ benefits, an applicant is authorizing the Department to request access to, and review of, the applicant's and it's affiliates' state tax returns. Authorized representatives of the applicant with full authority to waive confidentiality under Pennsylvania law will sign off on the release of tax information by the Department of Revenue.

5. **Illegal Alien Labor**
   No person or business receiving a tax exemption, deduction, abatement or credit shall knowingly permit the labor services of an illegal alien in a zone. A person shall be deemed to have knowingly employed or knowingly permitted the prohibited services if he has active knowledge or has reason to know that such services have been provided.

   In the event of a violation, the Department or political subdivision awarding the tax exemption, deduction, abatement or credit under the Act shall require repayment of the amount of tax exemptions, deductions, abatements and credits received by it for the year or years in which such violation existed.

6. **Penalty for violation of the Act**
   Any party improperly receiving KOZ tax benefits must return all tax benefits received and will be subject to the applicable interest, civil and criminal penalty provisions in the Act.

7. **Repayment of Benefits**
   Any qualified business located within a zone and receiving exemptions, deductions, abatements or credits under the Act, which relocates outside of the zone within the first five years of locating in a zone, may be required to refund all tax benefits received to state and local authorities as provided in the Act.

   Any business that fails to meet the relocation obligations set forth in paragraph D.2. above will be subject to revocation of future benefits and repayment of benefits previously received.

8. **Deadlines**
   - The deadline to file a KOZ application is December 31st of the year for which benefits are to be received.
   - The deadline for compliance with code violation deficiencies is December 31st of the year for which benefits are to be received.
   - The deadline for compliance with tax payment obligations is February 5th of the year following the year for which benefits have been requested.

9. **Definitions**
   a. **Applicant:** a business, property owner, or resident with an approved KOZ application. An applicant is identified by a KOZ number assigned to an application.

   b. **Business Expansion:** an existing Pennsylvania business whose operations, equipment and employees remain at their present location when the business expands into a zone. If any part of the existing business operations, equipment or employees are relocated into the zone, the Department will deem such action a relocation.

c. **Business/Property Owner:** an association, partnership, corporation, sole proprietorship, limited liability corporation or employer.

d. **Capital Investment:** (i) an undertaking to construct, repair, renovate, improve, equip, furnish, or acquire any building, structure, facility, or physical betterment or improvement; (ii) land; or (iii) furnishing, machinery, apparatus of equipment for building, structure, facility or physical betterment or improvement, the term includes soft costs related to the project.

e. **Domicile:** the place where a person has a true and fixed home and principal establishment for an indefinite time and to which, whenever absent, that person intends to return. Domicile continues until another place of domicile is established.

f. **Full-Time Employment:** for the purpose of determining relocation requirements compliance "full-time employment" shall be defined as full-time, permanent employment in the specific industry sector within which the business operates.

g. **Program Participant:** an approved entity (business/property owner, resident) participating in the KOZ program. The approved entity is identified by how it files with the federal government; an Employer Identification Number (EIN) for businesses and a social security number (SSN) for residents. A single program participant could submit multiple applications for multiple exemptions.

h. **Out of State:** A business entity coming from another state that is submitting its initial KOZ application.

i. **Resident:** A person who is domiciled and resides in an area that is designated a Subzone.

j. **Soft Costs:** include items directly related to the completion of the project, e.g., professional services/ consultants, architectural fees, engineering fees, inspection fees, insurance, environmental assessment, legal fees, closing costs and contingencies. Soft costs may not exceed 10% of capital investment.

k. **Start-up:** A business applicant that is a new entity or expansion of an existing entity that is not a relocation.

10. **Nondiscrimination**
No assistance shall be awarded to an applicant under this program unless the applicant certifies that the applicant shall not discriminate against any employee or against any person seeking employment by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act, which prohibits discrimination on the basis of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, or in violation of any applicable federal laws.

11. **Conflict of Interest Provision**
An officer, director, or employee of an applicant who is a party to or has a private interest in a project shall disclose the nature and extent of the interest to the governing body of the applicant, and may not vote on action of the applicant concerning the project, nor participate in the deliberations of the applicant concerning the project.

12. **Project Records**
The applicant must maintain full and accurate records with respect to the project and must ensure adequate control over related parties in the project. The program office requires access to such records, as well as the ability to inspect all work, invoices, materials, and other relevant records at reasonable times and places. Upon request of the program office, the applicant must furnish all data, reports, contracts, documents, and other information relevant to the project.

E. Eligibility for Other Department Programs

Keystone Opportunity Zone benefit recipients may be eligible for other programs administered by the Department. The Department's Single Application for Assistance can be completed to apply for financial assistance from the Department's various funding sources.

The Department encourages you to visit our web site and submit your Single Application for Assistance via on-line submission at dced.pa.gov/singleapp. In addition, you may call the Department's Customer Service Center at 1-800-379-7448, or your local KOZ Regional Coordinator *(See Attachment II)*.

Section II – The Application Process

A. General

1. KOZ Applications by applicants that are property owners, businesses and residents and guidelines to assist with the completion of the KOZ Application may be accessed in the following manner:
   a. **Applications must be completed online.** The guidelines to assist with the completion of the application may also be viewed online. The application and guidelines can be accessed by going to dced.pa.gov/koz. Your completed application will be electronically submitted to the Department and your local coordinator.
   b. All questions marked with an asterisk must be completed on every application.
   c. If you wish to obtain a copy of the guidelines please contact the Department's Customer Service Center at 1-800-379-7448 or download a copy at dced.pa.gov/koz.
2. Applicants must file an annual application by December 31st of the year for which they are applying for benefits to maintain eligibility for KOZ benefits.

B. Approval Process

1. Applicants must apply on an annual basis to maintain eligibility for KOZ benefits.
2. No qualified business may claim or receive an exemption, deduction, abatement or credit under the Act unless that qualified business is in full compliance with all state and local tax laws, ordinances and resolutions.
3. No qualified business or person may claim or receive an exemption, deduction, abatement or credit under the Act if any person or business with a 20% or greater interest in that qualified business is not in full compliance with all state and local tax laws, ordinances and resolutions.
4. No qualified business or person may claim or receive an exemption, deduction, abatement or credit under the Act unless that qualified businesss or person is in full compliance with all state and local zoning, building and housing laws, ordinances and codes. The Local Coordinator will determine compliance with local taxes and codes and forward the application to the Department within 15 business days of receipt of the application, whether or not the applicant is locally compliant.
5. The Department will assign an official KOZ file number to the application and forward the application to the Department of Revenue to determine state tax compliance and to the Department of Labor and Industry for Unemployment Compensation tax compliance.
6. Compliant applications will receive an approval letter from the Department. The approval letter is verification of eligibility to receive KOZ benefits from state and local entities.

7. Non-Compliant applicants will receive a letter from the Department directing the applicant to the appropriate agency to resolve the compliance issue.
8. Applications with code compliance issues must be compliant by December 31st of the calendar year for which the KOZ benefits are requested.
9. Applications with tax compliance issues must be compliant by February 5th of the calendar year following the calendar year for which non-compliance occurred.
10. Applicants receiving KOZ benefits must report a change in status due to relocation, sale, closure, local non-compliance issues, death, business name change, parcel number change, address change or any change that may affect benefit status on a KOZ Change of Status notification. The Change of Status notification must be completed online by going to dced.pa.gov/koz.

Section III – Extensions

***** This Section Pertains to Local Taxing Bodies Only *****

A. Extension of Unoccupied Parcels

The Department may approve an application from political subdivisions to extend the exemptions, deductions, abatements and credits. For a parcel in a zone or Subzone that expires in 2013 or any year thereafter, the zone may be extended for an additional period of no less than seven years but no more than ten years from the date of occupancy or from the expiration date of the zone, as determined by the Department. For zones that expired in 2013, the extension shall apply to only those parcels that are unoccupied on February 14, 2012. For zones that expire after 2013, the extension shall apply to parcels that are unoccupied on a date determined by the Department.

The application for extension of benefits must comply with the application process described in Section III B of these guidelines. The Department, in consultation with the Department of Revenue, shall review the application and, if approved, shall issue a certification of all tax exemptions, deductions, abatements or credits under the Act for the extended time within three months of receipt of the application.

The Department must receive an application no later than three months prior to the expiration date of the Zone.

B. Application Process

Submit the following to the Department by the deadline(s) indicated above:

1. A KOZ Designation, Expansion & Extension Application, found at dced.pa.gov/koz.
2. A cover letter identifying the option (7 or 10 year extension) the applicant is selecting, if applicable.
3. A narrative that includes a description of the property, including the former use, present use, proposed future use and the strategic economic importance of the site. Identify the amount of the proposed capital investment and the proximity of the site to transportation modes including water, rail, air and major highways.

4. A spread sheet listing the properties you are submitting for designation or extension (must contain the same information that is on the attached spread sheet sent by the Department). Name of property owner, location with complete address, municipality, school district, parcel numbers, acreage, dimensions of the site. All information must be included.

5. Photographs of the property to be designated or extended.

6. A detailed map of the proposed Zone, including geographic boundaries, total area and present use and conditions of the land and structures of the proposed zone.

7. A formal, binding ordinance or resolution passed by every political subdivision in which the proposed zone is located that specifically provides for all local tax exemptions, deductions, abatements or credits for persons and businesses set forth in this act.

8. Any PILOT agreements that may be executed in connection to the designation.

9. Evidence that the proposed zone shall meet at least two of the following criteria:
   - At least 20% of the population is below the poverty level.
   - The unemployment rate is 1.25 times the statewide average.
   - At least 20% of all real property within a five-mile radius of the proposed zone in a nonurban area is deteriorated or underutilized.
   - At least 20% of all real property within a one-mile radius of the proposed zone in an urban area is deteriorated or underutilized.
   - At least 20% of all occupied housing within a two-mile radius of the proposed zone in a nonurban area is deteriorated.
   - At least 20% of all occupied housing within a one-mile radius of the proposed zone in an urban area is deteriorated.
   - In an urban area, the median family income is 80% or less of the urban median family income for that metropolitan statistical area.
   - In an area other than an urban area, the median family income is 80% or less of the statewide nonurban median family income.
   - The population loss exceeds 10% in an area that includes the proposed zone and its surrounding area, but is not larger than the county or counties in which the proposed zone is located, based on census data for the period between 1980 and 1990 or census estimates since 2000 establishing a pattern of population loss.
   - The political subdivision in which the proposed zone is located has experienced a sudden and/or severe job loss.
   - At least 33% of the real property in the proposed zone in a nonurban area would otherwise remain underdeveloped or nonperforming due to physical characteristics of the real property.
   - The area has substantial real property with adequate infrastructure and energy to support new or expanded development.

Attachment I – Contacts

Department of Community & Economic Development (DCED)

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Department of Revenue (DOR)

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Department of Labor & Industry (L&I)

Labor & Industry Building
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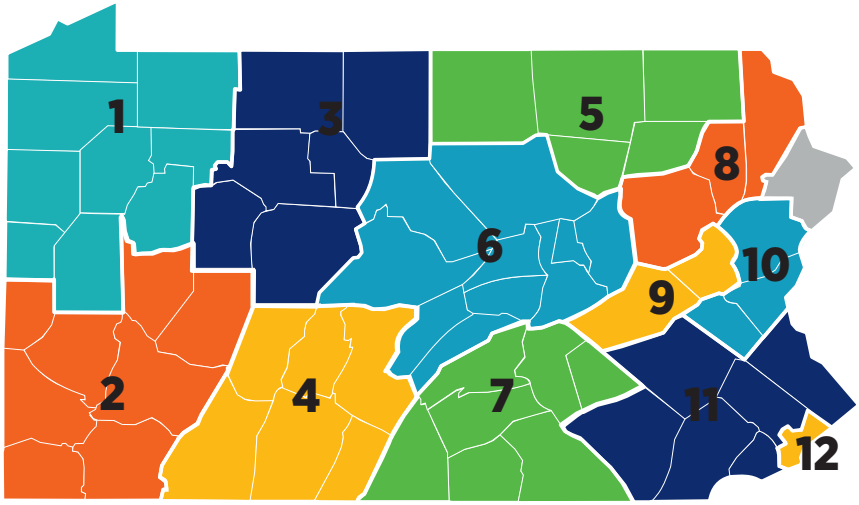
E-mail: UC-News@pa.gov

Local Tax and Code Issues

Local tax and government issues should be directed to the appropriate local authority.

Attachment II – KOZ Coordinators



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7. South Central
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8. Lackawanna/Luzerne
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9. Schuylkill/Carbon
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10. Lehigh Valley
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11. Southeast
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